

GAMING UPDATE

Volume 11, Edition 1

February 1997

Decal? What Decal?

Are you using a coin or currency-operated dispensing device to sell pickle cards? If so, the device must be **registered** with the Department and have affixed to it, a current dispensing device decal. Failure to register a device in use, or allowing a device to be used with an expired decal can result in an **administrative penalty of \$30 per device. In addition to the penalty,** you will be required to pay the \$50 registration fee.

The responsibility for registering a device is based upon the **LOCATION** where the device is being used, and is **NOT** simply the responsibility of the owner of the device. For example, if you are licensed as a pickle card operator and renting a device from a licensed organization, **YOU, the**

pickle card operator, must register the device and pay the \$50.00 registration fee. A licensed organization cannot pay the registration fee for you, nor reimburse you for the fee. All dispensing device registrations and decals expire at midnight, on December 31 of each year. Registrations must be renewed annually. **The 1997 pickle card dispensing device decals are GREEN.**

Department Inspectors will be stepping up compliance checks of dispensing devices during the months of January and February. If you do not have a **green 1997 decal** on your device, you need to cease using the device immediately until you register the device and obtain the proper decal.

Nebraska Gaming Operations Struggle As Wagering Dollars Move Out-of-state

Over the past year, Nebraska nonprofit organizations conducting bingo and pickle card activities, for-profit businesses licensed to sell pickle cards for these organizations, and counties, cities and villages conducting lottery activity (keno) have all felt the impact of casino-style gambling being offered in neighboring states. In particular, the growing gambling industry in Iowa has played the most significant role in the story of what is happening on our side of the Missouri river in gaming today.

No fewer than **nine bingo operations in the Omaha metropolitan area** (all within 10 miles of an Iowa land-based casino and two river boat casinos) have closed during 1996, and for the first time since the 3rd quarter of 1992, there has been

a decline in both pickle card and keno wagering across the state. **Overall, gross charitable gaming wagering in Nebraska has declined 18 percent since April of 1995** (which coincides with the opening of the first casino in Iowa). Gross wagers were \$410,238,945 for the four quarters immediately prior to that period, compared to \$335,310,310 for the four most recent quarters. **Pickle card sales were down 20.7 percent, and keno wagering was down 14.4 percent.**

Nebraska's experience is not unlike that being felt by charities in other states where casino-style gambling has become readily accessible to the public. Louisiana charitable gaming, for example,
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declined from \$400 million in 1992 to \$225 million in 1996 (a 43.8 percent reduction) as video poker machines and river boat gambling were legalized. Less drastic, but similar declines have been felt by charities in other states as well.

The future of charitable gaming is not all gloomy and hopeless however. At a recent gaming regulators' conference attended by representatives of Nebraska's Charitable Gaming Division, many states reported that after an initial decline, they were now starting to experience somewhat of a come-back in charitable gaming wagering. Although they did not expect to again reach the wagering levels experienced prior to the casino invasion, things were looking more optimistic.

Only time will tell if Nebraska's gaming industry will follow this trend and bounce back within the months to come. **Ultimately, it has become increasingly important** for those involved in Nebraska's charitable gaming industry wishing to protect their interests, to keep abreast of what our state legislators are thinking and doing. For more information on how to do this, **see the article entitled "Keeping In Touch With The Legislature" on page 3 of this newsletter.**

Electronic Bingo on the Horizon

The Charitable Gaming Division has been working with several manufacturers recently regarding the use of **electronic bingo card monitoring devices** in Nebraska. For those of you who are not familiar with these devices, they are a player-held device about the size of a desktop calculator, and can be loaded electronically with up to 72 bingo card faces. As bingo numbers are announced by the bingo caller, the bingo player enters the numbers into the device. The device then **"electronically daubs"** the numbers entered on all bingo card faces stored in the device. The device monitors the player's bingo cards, and **alerts the player** when a bingo has been achieved.

During a portion of 1996 we authorized the use of one type of electronic monitoring device on a test basis at two bingo locations in Omaha. Reports from gaming managers as well as bingo players were favorable toward the devices, and no major problems were encountered. Since that time, we have developed rules for the distribution and use of such devices and have been conducting tests on some of this equipment. We anticipate having one or more manufacturers of electronic bingo card monitoring devices licensed soon, and hope to have at least one of these devices authorized for use in the state in the very near future.

NEBRASKA DEPARTMENT OF REVENUE

STATE TAX COMMISSIONER — M. BERRI BALKA

Charitable Gaming Division Administrator — Jim Bogatz

Investigation Division Administrator — Greg Schnasse

Charitable Gaming Division Managers — Steve Schatz, Policy/Licensing
Gerald Otoupal, Audit



WHO TO CONTACT FOR

Audits, Annual and Quarterly Reports, and Tax Returns

Gerald Otoupal	471-5940
Gene Weiner	471-5953

Pickle Card Receipt Books

Mary Gropp	471-5937
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Licenses, Authorizations, Permits, Device Decals, and Forms

Sharon French	471-5939
Carri Fitzgerald	471-5949

Bingo, Pickle Card, and Lottery/Raffle Game Conduct

Deb Weber	471-5944
Steve Schatz	471-5943

County/City Lottery Licensing and Game Conduct

Steve Schatz	471-5943
Linda Knox	471-5945

County/City Lottery Audit and Tax Returns

Gerald Otoupal	471-5940
Pete Andersen	471-5936

Investigations, Complaints, and Fingerprints

Greg Schnasse	471-5941
Mike Olsen	471-5948

Inspections

Merle Reiling	471-5947
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Legal Proceedings

Mike Goodwillie	471-5946
Todd Bornhoft	471-5925

Keeping in Touch With the Legislature: What Will 1997 Have in Store?



As the 1997 legislative session begins, it could be more important than ever for those interested in Nebraska's charitable gaming future to **keep a close eye** on what is happening at the Statehouse. Proposals may be brought forth once again to try and help the ailing horse racing

industry, expand the available forms of gambling in Nebraska to compete with bordering states, and to possibly lower the state tax on bingo. **Your active involvement is important!** Advising your State Senator of your needs and concerns is vital to protecting your organization's best interests. **Keeping informed and voicing your concerns does not mean you have to travel to Lincoln. Here are some ways you can keep in touch with what is happening at the Capitol:**

CLERK OF THE LEGISLATURE

The office of the Clerk of the Legislature publishes rosters listing the names, phone numbers, committee assignments and other **information about state senators**. The Clerk's Office also provides **weekly hearing schedules, the speaker's daily agenda** and daily worksheets indicating each legislative bill's progress. During the legislative session, **answers to questions** about the status of bills or other information may be obtained by calling the **Legislative Hot Line**. The Hot Line is staffed from 8 a.m. to 5 p.m. weekdays. **This service is also available to the hearing or speech impaired**. Before 8 a.m. and after 5 p.m., and on weekends and state holidays, **callers can hear a recorded message of the next legislative day's agenda**.

UNICAMERAL INFORMATION OFFICE

The Unicameral Information Office is a division of the Clerk's Office. It publishes a newsletter called the **Unicameral Update** and a variety of other publications about the Legislature. The Information Office also offers two different videotapes on the legislative process. The tapes are available on loan for 10 days. **The Unicameral Update is free**, published weekly during the legislative session, and periodically during the interim. The Unicameral Update provides articles summarizing testimony at public hearings, floor debates by the senators, and a bill-by-bill listing of the legislation which has been acted upon during the previous week. **To subscribe, send your name and address to Unicameral Information Office, Room 359c, State Capitol Building, Lincoln, NE 68509, or you can call the Legislature's 24-hour Request Line at (402) 471-2877.**

BILL ROOM

Limited copies of legislative bills, constitutional amendments and daily journals can be picked up in

the Bill Room, or they **can be ordered through the 24-hour Request Line**. Callers are asked to provide the bill number of the legislation they wish to receive. Unless another year is specified, copies of bills introduced during the **current** session will be mailed. Subscriptions for copies of every bill introduced and the daily journals are available for a fee. Anyone interested in this service should write or call the Clerk of the Legislature.

INTERNET

The Legislature also has an **Internet Home Page** that can be accessed at: <http://unicam1.LCS.state.ne.us>. The home page has lots of valuable information such as hearing schedules, the daily journal, portions of the Unicameral Update newsletter, as well as a list of senators by district and other information about them.

Clerk of the Legislature

Patrick J. O'Donnell
Room 2018, State Capitol
Lincoln, NE 68509
(402) 471-2271

Hot Line Numbers:

(Voice and Telephone Text - V/TT)
Lincoln.....471-2709
Other Nebraska areas.....800-742-7456

Unicameral Information Office

Mitch McCartney, Director
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Lincoln, NE 68509
(402) 471-2788

Legislative 24-Hour Request Line

(For requesting copies of bills or
Unicameral Update subscriptions)
(402) 471-2877

Bill Room

Donnabelle Millet, Supervisor
Room 1102, State Capitol
Lincoln, NE 68509
(402) 471-2609

Internet

<http://unicam1.LCS.state.ne.us>

Gaming Regulations Being Revised

Department staff members are currently in the process of reviewing and updating regulations for the conduct of bingo. Once the review process is complete, we expect to schedule one or more public hearings to solicit comments, questions, and concerns on the revised regulations. **Notification of the hearing date(s)** will be made to provide you an opportunity to make your views known. We will also be accepting written comments on the proposed regulation revisions as well. Regulations for the various other gaming programs we administer will also be reviewed and updated in the near future.



Administrative and Court Actions

The following cases reached final administrative determination or court decision since the last issue of the **Gaming Update**:



Todd Schulz v. Department of Revenue, Lancaster County District Court, Docket 522 Page 069. This was an appeal of an order of the State Tax Commissioner denying the county/city lottery worker license application of the proprietor of a keno sales outlet location in Ogallalla, Nebraska. The application was denied based on a previous conviction for promoting gambling. The applicant appealed, arguing that because the Department issued its initial letter of intended denial after the 60-day statutory probationary period, the Department was estopped from seeking to deny the application. He also claimed that statutory provisions permitting the denial of lottery worker licenses for certain criminal conduct violated the Equal Protection Clauses of the U.S. and Nebraska constitutions because the Nebraska Lottery Act did not contain similar requirements. On October 15, 1996, the District Court held that the Department had the authority to deny licenses even after the expiration of the probationary license period and that the Legislature had a rational basis for imposing different treatment on keno workers and state lottery ticket sellers.



Central States Foundation v. Balka, et. al., Lancaster County District Court, Docket 544 Page 230. The Department of Revenue, in conducting an audit of Youth Athletic Association, an organization licensed to sell pickle cards, found donations of pickle card funds in excess of \$150,000.00 to a second organization, Central States Foundation, during a 12-month period. The Department requested records from Central States Foundation in order to determine whether the funds were ultimately used for a lawful purpose under the Nebraska Pickle Card Lottery Act. Central States, which holds no pickle card license, then filed suit in Lancaster County District Court to enjoin the Department from auditing the books and records of Central States, arguing that the Nebraska Pickle Card Lottery Act did not give the

Department the ability to look at the records of entities not licensed under the Act. On September 25, 1996, Judge Merritt, finding that permitting the Department to look at Central States' records would produce great or irreparable harm to the organization, issued a temporary injunction prohibiting the examination of Central States Foundation's records by the Department of Revenue.



In the Matter of Richard King - North Bend, Docket Number 96-008-35G. In this case, the Department sought to suspend the license of a sales agent for allegedly extending credit to pickle card operators by holding and failing to cash checks for pickle card units in a timely manner, extending credit to pickle card operators through failing to collect lease amounts for pickle card dispensing devices and through filing an inaccurate annual report with the Department. Without admitting liability, the licensee agreed to a 90-day license suspension, beginning on September 15, 1996. The case was dismissed on September 6, 1996.



In the Matter of Lynnette VanderLinden - Omaha, Docket Number 96-010-35G. This case involved a county/city lottery worker on whose initial license application the existence of a 1985 gambling conviction was not disclosed. She subsequently filed an amended application disclosing the conviction. The Department sought to revoke her license based on the conviction and the initial failure to disclose the conviction. After a hearing on May 30, 1996, the State Tax Commissioner issued an order, dated June 6, 1996, suspending the worker's license for 30 days.



In the Matter of the Nebraska Softball Foundation - Fremont, Docket Number 96-013-35G. On May 14, 1996, the Department sought a Cease and Desist Order to prevent the Nebraska Softball Foundation from allegedly using pickle card funds to pay league or tournament fees of

adult athletic teams sponsored by the organization's pickle card operators and from allegedly paying the personal expenses of individuals associated with its pickle card operators. The State Tax Commissioner issued an initial Cease and Desist Order on May 20, 1996. The organization sought a hearing before the Department's Hearing Officer. Later, the Department and organization entered into a Consent Order whereby the organization did not admit to violating the Nebraska Pickle Card Lottery Act but the order of the State Tax Commissioner was made permanent. The Consent Order was granted on June 5, 1996.



In the Matter of the Hot Spot, d/b/a Mickey Finn's, Don Vos, and Youth Athletic Association - Omaha, Docket Numbers 96-014-35G through 96-016-35G. These three cases all related to the sale of pickle cards to an unlicensed pickle card operator. The Department sought to impose administrative fines on the operator, sales agent, and nonprofit organization involved. Ultimately, without admitting liability, the sales agent and organization paid fines of \$250.00 each and their cases were dismissed on August 8, 1996. After a hearing, the State Tax Commissioner issued an order on August 8, 1996, imposing a fine of \$400.00 on the operator.



In the Matter of Harry's Bar, 24 Karat Keno, and the Village of Valparaiso, Docket Numbers 96-017-35G through 96-019-35G. These three cases related to a change in the method of keno number selection without adequate authorization. The Department sought to impose administrative fines on the sales outlet location, lottery operator, and village involved. The parties agreed to dismiss the matter following the filing of an amended schedule of operations with the Department. The cases were dismissed on July 18, 1996.



In the Matter of Cary & Machel's - Wilber, Docket Number 96-023-35G. This case involved a pickle card operator leasing a pickle card dispensing device. The operator had made no lease payments during a 12-month period and the Department sought to impose an administrative fine on the operator for accepting more in commission than permitted by the Nebraska Pickle Card Lottery Act. The amount of unpaid lease payments represented the additional commission.

After a hearing, the State Tax Commissioner issued an order imposing a fine of \$250.00



In the Matter of the Fox Hole Tavern - Wilber, Docket Number 96-024-35G. This case involved a pickle card operator allegedly failing to pay for pickle card units in advance of or at the time of delivery. Without admitting liability, the operator paid a fine of \$150.00. The case was dismissed on November 12, 1996.



In the Matter of St. Michael's Church - Spalding, Docket Number 96-025-35G. This case involved the alleged sale of pickle card units to a pickle card operator for which the organization did not have an authorization. The organization, without admitting liability, paid a \$100.00 fine. The case was dismissed on October 16, 1996.



In the Matter of Robert Robak and Knights of Columbus Council 3152 - Nebraska City, 96-026-35G and 96-028-35G. This case involved a number of transactions in which a pickle card operator was permitted by the sales agent and nonprofit organization to pay for pickle cards with cash rather than a check. Without admitting liability, the sales agent and organization paid fines of \$300.00 each. The cases were dismissed on November 14, 1996.

An Update on the Petition Drives...

As most of you know by now, two separate initiative petition efforts aimed at expanding the scope of gambling in the State of Nebraska failed to make their way onto the ballot this past November. (See the July, 1996 issue of the **Gaming Update** for a description of these proposals). There was a significant amount of last minute maneuvering and legal challenges and appeals in an effort to bring these measures to a statewide vote. In the end, however, neither petition effort was able to overcome the legal hurdles which would have allowed it to be placed on the November ballot. Nevertheless, there is still the possibility that one or both of these measures could resurface and possibly even show up on a statewide election ballot in 1998. Only time and the Nebraska court system can make that determination at this point, however. We will keep you advised of any developments in this area as they unfold.

New Investigators and Inspectors Join the Department

Several new Investigators and Inspectors have joined the Department of Revenue in the last six months, and will be assuming the gaming duties of several others who have departed. Here's an update on those who left, and their replacements in your area:

Ken Stute has replaced Bernie Suprano in the Scottsbluff area. Sadly, Bernie passed away last May. Ken's background consists of over 30 years experience with the Nebraska State Patrol, and he was assigned to the Scottsbluff area for the majority of those years working in the Criminal Investigation Division. Ken will be performing both inspection and investigation functions in the western portion of the state. **Ken can be reached at (308) 632-1202.**

Tim Moninger has replaced Steve Shaw as the Investigator in the central portion of the state. Tim also has a law enforcement background with over 16 years experience, mostly in the Kearney and Franklin areas. Tim began with the Department of Revenue this summer as an Inspector, and assumed the investigation duties during October 1996. **Tim is assigned to the Grand Island office, and can be contacted at (308) 385-5019.**

Carol Hiser has replaced Tim as the Inspector for Grand Island and surrounding areas. Carol began work in December and has been training in both Lincoln and the Grand Island areas. Carol's geographic area of responsibility includes the south central portion of the state. **Carol's phone number is (308) 385-6021.**

Jeff Oliver, who also began work and training in December, has replaced Joe Renteria as the Inspector assigned to the Lincoln office. Jeff's geographic area of responsibility is southeast Nebraska, including Lincoln. **Jeff's office number is (402) 471-5748.**

The Department is certainly pleased to have Ken, Tim, Carol and Jeff on board and encourage you to contact them for assistance at any time.

Annual Reports Continue to Reveal Shortages

Internal shortages of bingo and pickle card proceeds continue to be an ongoing problem for many organizations, as evidenced by the filing of this year's annual reports. Despite concentrated efforts this past year by the Charitable Gaming Division's Audit staff to assist and educate licensees in the area of record keeping and internal controls, many organizations still reflected **unaccounted for losses** on their annual reports. Of the 1,050 bingo

and pickle card annual reports filed by 720 licensed organizations, **53 organizations reported significant shortages** resulting in referral to the Department's Investigation Division for further investigation of possible criminal activity.

The Department has initiated administrative actions against several organizations which have experienced recurring shortage problems. These actions may result in license suspension, license cancellation, or license revocation. Two organizations executed legal stipulations agreeing to voluntarily surrender their licenses if shortage problems were not corrected. An additional **21 organizations were placed on a monthly reconciliation program** requiring the organizations to reconcile pickle card sales on a daily basis and file monthly reports with our office.

Where Are Those Keno Records?

The Nebraska County and City Lottery Act requires that records associated with a lottery conducted by a county, city, or village be **retained for at least three years** unless a shorter retention period is authorized by administrative regulation (Nebraska Revised Statutes, section 9-650). Over the years there has always been **some confusion** regarding what keno records had to be retained and for what length of time. Additional confusion was created due to an apparent discrepancy between a General Records Retention Schedule published for city treasurers and the information contained in the County and City Lottery Regulations. **We are currently working with the Secretary of State's Records Management Division** to resolve that discrepancy and develop a records retention schedule specific to county/city lottery records.

The current administrative regulations for county/city lottery address a number of specific record retention requirements for keno. You and your lottery operator should review these regulations to ensure compliance with all of the various record retention requirements. If you haven't been retaining these records up to now, **it is important** that you make the appropriate adjustments for the future.

Many keno lotteries have been operational for more than three years and you may be in a position to dispose of some records, if you have not already done so. However, **certain county/city lottery records related to federal excise tax and withholding obligations may be subject to retention periods that are longer** than what is required by our administrative regulations. We would suggest that you check with the **Internal Revenue Service, Excise Tax Division, telephone (402) 361-0380**, before disposing of any county/city lottery records.

County/City Lottery News Briefs

❑ **Total dollars wagered on keno for the period April 1, 1996 through June 30, 1996**

were \$41,288,840.

Comparing this to the total dollars wagered for the same period last year of \$48,857,314 yields a **decrease of approximately 15 percent**. The amount wagered for April through June of 1996 is also down from the previous quarter's wagers of \$45,808,377.

❑ **Total dollars wagered on keno for the period July 1, 1996 through September 30, 1996**

were \$39,249,429.

Total dollars wagered for the same period during the previous year were \$45,633,864 or a **decrease of about 14 percent**. The amount wagered for July through September of 1996 is also down from the previous quarter's wagers of \$41,288,840.

❑ **Establishment of a county/city lottery** was on 12 ballots on election day in November of 1996. Communities which **approved** a lottery included the cities of **Blue Hill, Holdrege, and O'Neill** and the villages of **Brewster, Louisville, Otoe, and Wallace**.

The lottery issue was **defeated** in the communities of **Aurora, Geneva, Sutton, and West Point** and in **Buffalo County**. Including these most recent election results, 223 elections have been held on the establishment of a county/city lottery. Of this total, there have been 194 affirmative elections and 29 instances when the lottery issue has been defeated. Of the 194 affirmative elections, 19 are no longer valid since a lottery was not implemented within four years of the date the results of the election were certified as required by law.

❑ **The city of Cambridge and the villages of Beemer and Exeter** have been issued county/city lottery licenses since our last publication. The communities of **Avoca, Imperial, and Sterling** have discontinued their lotteries.

A Couple of Keno Reminders...

County/City lottery (keno) licenses cannot be transferred. If you are considering selling or buying a business where keno is conducted, keep in mind that a **county/city lottery sales outlet location license is not transferable**.

The new owners of the business must enter into an agreement with the lottery operator and receive the required approvals of the sponsoring community before submitting a license application to the Charitable Gaming Division for review.

Keep the Department informed. With the significant number of individuals and businesses involved in county/city lottery activities, it has become increasingly difficult to monitor the license status of lottery workers, lottery operators, and sales outlet locations.

You are reminded that it is your responsibility to keep the license application information on file in our office current. By submitting the appropriate form to report changes to the status of lottery workers and changes to the license application information on file for sales outlet locations, lottery operators, and communities, we can more efficiently update and maintain our licensing records. For example, **file Nebraska Schedule III, Form 50G, to report** new employees at a sales outlet location or to report revised duties, terminations, and name or address changes for existing lottery workers.

File Nebraska Schedule II, Form 50G, to report changes to sales outlet location license information such as type of business or corporate officers as well as to report changes in ownership or to cancel the license of a location that is no longer operating. Similar changes to lottery operator license information are to be reported on Nebraska Schedule I, Form 50G. If a sponsoring community needs to report a change in its license information, such as the name of the contact person, mailing address, or other changes, use the Form 50G. Contact us for additional copies of any of these forms.

Two New Companies Licensed

Gaming licenses were recently issued to two new companies to manufacture and/or distribute charitable gaming equipment in Nebraska. These companies are:

Tabco USA of St. Catharines, Ontario, which was issued a manufacturer's license. Tabco produces pickle card games and makes several varieties of seal card games. Contact your licensed distributor if you are interested in learning more about Tabco's product line.

JD Distributing of Omaha, Nebraska, which was issued a distributor's license. JD Distributing is owned by John Hassett Sr., who plans to specialize in the distribution of electronic bingo card monitoring devices.

Want to Know More About Charitable Gaming?

Looking for a speaker for your next conference? Interested in starting a new gaming activity? In need of help understanding gaming requirements, rules, or forms? **CONTACT US!** We have staff members who specialize in gaming-related presentations both formal and informal. No group is too big or too small. Just give us a call and we will make arrangements to suit your group or organization needs.
(402) 471-5937

GAMING CALENDAR

February

17 All State Offices Closed — President's Day

April

25 All State Offices Closed - Arbor Day

30 Forms 35C and 35D due for period ending 3/31/97, from Class II bingo and pickle card licensees

Form 51 Tax Return and Applicable Schedules I, III, and/or IV Due. Last acceptable postmark date is April 30th

May

26 All State Offices Closed - Memorial Day

June

12 Last Scheduled Day of 1997 Legislative Session

30 End of 1996-97 Annual Reporting Period

Compulsive Gamblers Assistance

Gamblers Anonymous 1-800-GAMBLER (National)

- ✓ Gamblers Anonymous (Lincoln) **(402) 473-7933**
- ✓ Gamblers Anonymous (Omaha) **(402) 978-7557**
- ✓ Gamblers 12 Step & Family (Omaha) **(402) 978-7899**

- ✓ Family Services (Omaha) **(800) 762-0868**
- ✓ Nebraska Council on Compulsive Gambling (Bellevue) **(402) 291-0980**



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